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RICHMOND, VA., SATURDAY, FEBRUARY 4, 1905.

IN JURY'S HANDS

Unable to Agree and Ad-Journed Over Until This Morning.

IS WARNED NOT TO TALK WITH ANY ONE

The Day Was Spent in Argument and Judge William Gordon Robertson and H. M. Smith, Jr., Made Good Speeches.

(Special to The Times-Dispatch.)
ROANOKE, VA., Feb. 3.—The fate of Charles R. Fishburne is now in the hands of the jury. The argument was concluded at 6:15 this afternoon, and the court adjourned until 8 o'clock to-night.

When the court opened to-night, at the request of the defense, the judge instructed the jury on the penalty for involuntary manslaughter, and they retired to the Circuit Court room,

At 10:15 the sheriff reported that the foreman of the jury stated that they would be unable to agree to-night, and they were adjourned over until to-morrow morning at 9 o'clock.

morning at a o'clock.

They were called in, and Foreman Jameson, of Franklin, stated that they were unable to agree. The judge adjourned them over until to-morrow, warning them not to talk with any one about the case. There was a large crowd in the courtroom to-night, but not so many ladles. The court-room was crowded this morning when court opened, and a deep interest was shown in the concluding speeches.

Fine Speeches.

Fine Speeches.

Idge William Gordon Robertson, who in ill health made the closing speech the defense this morning. It was the cest speech made for the defense alough it covered only the same points eady presented, being mainly devoted attacking the statement of Dr. Lefew attacking the statement of Dr. Lefew at the evidence of Mrs. Moyler. He insect that if Mrs. Moyler witnessed she is have had eyes in the back of her all. He also claimed that it was a conracy of physicians, all of whom stick to the statement; which was prepared Dr Brown, who also came in for concrable criticism.

Afraid of Smith.

Breaking of Mr. Smith, he said: "And I want you to remember that when that old wheel horse (pointing to Mr. Smith) gets to you. I remember him when I lived at Richmond and he was Commonwealth's Attorney—how he did there in the Police Court. He is used to these things. It is an old thing for him. If you don't keep your minds clear he will make you believe that we are here to prove all things and they not prove anything.

whose mind is so gigantic that he thinks very few men are able to read him. I can read a part of, if I cannot read

it all.

"This is no civil case, with the Lofew family on one hand and the Fishburges on the other. The Lefews are not suing the family for damages, but you are sumthe family for damages, but you are same moned by the Commonwealth of Virginia to determine whether Fishburne shall be punished for the death of that man or not. This is not a private quarrel be-tween people which you have got to sec-

POINTER ON THE WEATHER



Assembly of Province of Moscow to Send Petition to Czar.

SITUATION IN POLAND SERIOUS

Troops Fire on Crowd at Lodz and Kill Two-Maxim Gorky to be Placed on Trial.

The Retirement of Grippin-

berg.

the labor situation in Poland. At Sosnovice, a center of the iron and cotton industries, 40,000 men are on strike, with intimidation of those workmen who have where a volley from the soldiers killed two and wounded two, has not Sosnovice was destroyed and traffic interrupted by strikers. In Warsaw workmen in forty-two sugar manufactories have struck.

political charges, but whether before a termined.

The assembly of the nobility of the rovince of Moscow has voted to memorialize the throne for an elective legis

situation in St. Petersburg as very sat-isfactory. Ill health is assigned as the reason of the retirement of Lieutonant-General Gripenberg from the command of the second army of Manchurla; his successor is Lieutenant-General Myloff, a veteran of the Turkish campaign.

GORKY TO BE TRIED.

(By Associated Press.)
ST. PETERSBURG, Feb. 2, 2 A. M.-It is the intention of the Government to bring Maxim Gorky and seven other authors and publicists to trial on political charges. Governor-General Trepoff, who received the Associated Press correspondent Fri-

The second of the death of that had so this is not a private quarrel bene people which you have got to set the Commonwealth comes into the tand asks that one of her citizens unlished for the crime of which he is sed. Do not be prejudiced against prisoner's family because they stood heir own. Do not think when they "It is for you to decide how much punishment the Commonwealth of Virginia demands at your hands. I submit that this young man's statement bears the evidence of truth on its face. I believe it you inflict any punishment, it will not be severe."

Harry Smith's Speech.

The whole city wanted to hear Mr. Smith speak and hundreds were turned away at the afternoon session, and there was not standing room. The Judgo could hardly be seen for the Indies that crowded around him.

Mr. Smith spoke from 2 o'clock to 6 d'clock, and the large crowd drank in svery word of his speech. He first paid his respects to the opposing counsel. He said the detence had no case worthy of serious consideration. Charles Fishburne's story was denied by a half dozen reputable, disinterested witnesses. What he told, Mr. Stone was natural. He had stood face to face with the awful consequences of his crime for weeks.

He made light of the boys calling "Ico" to Fishburne, and said nearly every other man would have laughed it off as a foke.

He calimed that Mrs. Moyler's evidence when the that she was a sempticably truth.

The made, light of the boys calling "leo" to Fishburne, and sald nearly every other man would have laughed it off as a foke.

He claimed that Mrs. Moyler's evidence, showed that she was a remarkably truthful lady, and the defence did not fully appreciate the value of the evidence, it that had been so, Fishburne would probably have told a different story. As it was Mrs. Moyler, without any knowledge of what Dr. Lefew stated, agreed in the main with his statement.

It was regretted that to attempt to save a criminal from purabhanil the statement of the save a criminal from purabhanil the statement of the same and Perished.

In mates Become Panic Stricken.

Woman Got Out Returned and Perished.

(By Associated Press.)

BUFFALO, N. Y. Feb. 3.—Fire to large a part of the largest him desiroyed a part of the largest him was killed and four were seriously was killed and four were seriously was killed and four were seriously may have been the squarest, true sets little hoy he ever saw on the witness sland. He declared that it was infamous that the defence had made him say that he was responsible for his faster facts the statement of the piace, one wont famous that the defence had made him say that he was responsible for his faster facts the statement of the piace of the building and they becaming through his young manhood, through object the statement of the piace of the piace of the statement of the piace of the piace of the piace of the piace

'BUT AIN'T HE LONESOME?'

STAYED AT HOME CREW OF SCHOONER

Dinner Where Justices Were Given Precedence.

CAUSES MUCH ASTONISHMENT

President Excused Speaker and Will Doubtless Have Another Dinner for His Benefit.

(Special to The Times-Dispatch.) WASHINGTON, Feb. 3.-To "Uncle Joe" Cannon, Speaker of the House, be-

ongs the distinction of being the first man who has declined to dine in the White House since Mr. Roosevelt became Washington stood still in astonishment o-day when it heard the news

Mr. Cannon was invited to the State linner given last night to the Supreme was to the members of the Supreme and could not attend, and the ranking justice at the dinner was Justice Harlan.

When Speaker Cannon learned that the court was to be accorded precedence over court was to be accorded precedence over him, he sat down and penned a note to the President, in which he asserted that he, as Speaker of the House, could not be outranked by any person at that dinner except the President, and he begged the President to excuse him.

This Mr. Roosevelt did, and he will doubtless have the Speaker at a dinner where his full rank can receive due recognition.

It is explained that if President Roose-the first the Spureme Court

TUCKER MAY ENTER GUBERNATORIAL RACE

GUBERNATORIAL KACE

(From our Regular Correspondent.)

WASHINGTON, D. C., Feb. 3.—It is
not wholly improbable that Hon. Harry
St. George Tucker will announce his candidacy for the Democratic nomination for
the governorship. It is believed he is
considering the matter and that his mind
is not fully made up. It is pretty well
understood that he will issue a statement in the course of a few days saying
that he is or is not a candidate.

Mr. Tucker would not discuss the subject of his candidacy to-day, but there
is a general belief that he could be induced to shy his caster into the ring.
It is well sattled that the number of requests which are being made of him to
become a candidate will compel him to
make a statement of some character.

TRYING TO RESCUE ROGERS WILL

and Half North of False Cape Station.

THE LIFE SAVERS AT WORK

At I A. M. Had Been Unable to Reach Schooner or Learn

NORFOLK, VA., February 4 .- An un Saving Staton, too far from the beach to be reached by the life savers, who made repeated efforts to get a line to the

Her Name.

The boat struck the bar during a heavy snowsform at 10 o'clock to-night, and was sighted shortly afterwards by a life saving patrol. The weather is hovering around the zero mark, and a heavy sea is running on the coast, making the position of the oraft very dangerous. The Merritt Wrecking Company sent their tug Rescue to the scene at midnight to-night. A message over the government wire at 1 o'clock Saturday morning says the life savers have abandoned attempts to reach the vessel before daybreak, and that her name is unobtainable. was sighted shortly afterwards by a life

SIXTEEN-YEAR-OLD BOY CHARGED WITH ARSON

(By Associated Press.)

CHARLESTON, S. C., Feb. 3.—Raymond Bowman, arrested yesterday for arson, was before a magistrate to-day and admitted setting fire to several hay and grain warehouses. As the second story of one place set aftire was used as a dwelling, his offence is a capital crime and not ballable, and the sixteen-year-old prisoner must remain in jail until trial. Eight hay and grain store-rooms were set on fire within a week the losses aggregating \$25,000.

MOTHER DIED WHILE GIRL WAS MARRIED IN KITCHEN

ANDELUSIA, ALA: Feb. 3.—W, J. Batson and Miss Millio Edwards were married here to-day while the mother of the bride was dying and .er father was fatally ill with pneumonia. The ceremony took place in the kitchen. While the minister was pronouncing the couman and wife, Mrs. Edwards expired.

Instantly Killed.

(Special to The Times-Dispatch.)
CHATHAM VA., Feb. S.—Jesse Ross shot his brother, Bud Bass, Monday last near Cascade. They were hunting when the accident occurred. The gun was discharged at close range, tearing away entirely the left side of young Ross's head. Death was instantaneous. Bass is an industrious farmer of the Cascade community.

turned to Union Station and boarded the mid-day train for home.

On being questioned at the station, she said that her husband died six months ago and that her baby was born five months thereafter. The husband was clerk in a store a few miles distant from Hedford City.

A lady of Bedford City, Mrs. Kim, had been very kind to her and had defrayed the expenses of the Richmond trip. Mrs. Kim also said that she would care for the baby if no one in Richmond would take it.

Mrs. Comble is anxious, she says, to find a position in some store. She is young, well dressed and intelligent.

In reply to a telegram of inquiry sent to Bedford City last night the answer came that no such person could be found there, and her name was unknown.

52 WANT HELP TO-DAY.

The 59 advertisements for help published in to-day's Times-Dispatch on page 8 are as follows:
7 Trades. 26 Domestics,

3 Salesmen. 12 Miscellaneous. 4 Agents.

This not only interests those out of work, but those desiring to improve their positions as well.

Refused to Attend White House Unknown Vessel Strikes Mile President Decides to Appoint General Rosser Postmaster at Charlottesville.

ANOTHER BLOW AT SLEMP

Congressman and Referees Do Not Appear to Have Much Influence at White House,

WASHINGTON, D. C. Feb. 5 .- Gene master at Charlottesville. He will no Revenue Collector of the Richmond dis-Asa Rogers, of Petersburg. The appointville postmestership will be announced mind of the President-is made up to leave Captain Rogers in the undisturbed The appointment of General Rosser would that he endored another applicant.

General Kosser, is not a resident of the Richmond district of which he wanted to be made collector, and the statute provides that the collector shall be appointed from the district. Both General Rosser and Capiala Rosser are Confederate acidiers, with the records and for a time Capiala Rosser's eventual Rosser's command. It is stated on high authority that there will be no further attempt to oust Capiala Rossers. Mr. Elemp and his referees are not of very great power in Virginia, judging from recent appointments. The referees

SHEHAN FINED.

Labor Disturbance Over the Cutting Off of Heaters.

(Special to The Times-Dispatch.) SALISBURY, N. C., Fab. 3 .- Maste SALISBURY, N. C., Fab. 3.—Master Me-chanic J. F. Shehan, of the Southern Raij-way shops at Spencer, was given a hearing ba-fore Mayor Boyden, in this city, yesterday af-ternoon, for a personal assault upon Editor Carl Hammer, of the Salisbury Evening Sun, which occurred Monday night in the office of the paper. The court placed a fine which together with the costs amounted to \$25, upon Mr. Shehan and the amount was promptly patid. Mr. Shohan and the amount was promptly paid.

The Railway Car Men of Salisbury and Spencer beld a mammoth meeting in the court-house here last night, the same being attended by both union and non-union mechanics as well as many ladies and invited guests. Hon F. L. Ronemus, of Kansas City, who is at the head of the order of Railway Car Men of America, was the principal speaker of the occasion.

Greatest interest was aroused in Rich mond by the statement of General Nelson A Miles, published yesterday, purporting er under General Miles at Fortress Mon-

Dr. J. William Jones, secretary of the Jefferson Davis Monument Association, author of the "Memorial of Jefferson Davis, Our Dead President," intimate riend of Mr. Davis in the latter's old age, gave out last night the following sharp rejoinder to General Miles' statement, in several particulars flatly denying the accuracy of General Miles' state-

FOR GEN. MILES

Reply to the State-

ment.

Declared Before His Death That

His Jailor's Treatment of Him

Was Brutal and Insulting

in the Extreme-Mrs.

Davis's Testi-

mony.

CONDEMNS MILES

PSESIDENT DAVIS

Ing the accuracy of General Miles statements.

No amendments will be allowed to the month of the controversy between President Roosevelt and others with General Miles I have taken no interest whatever—indeed have been disposed to say "a plague on both your houses"—nor have I taken interest in the recent bill in Congress, supposed to be a hit at General Miles. But I have read with the greatest interest the amasing statement published this morning by General Network and the most overwhelming proof that this statement is overwhelming proof that this statement is overwhelming proof that the facts in the case. I note the following:

General Miles says that Mr. Davis "was sent to Fortress Monroe to await trial for complicity in the assassination of Mr. Lincoln."

Now, General Miles knows that this Now, General Miles knows that this Now, General Miles knows that this Now, General Miles knows that the prescribing the manner of consideration of the taken on the Davey bill, as the Democratic substitute for legislation on the railroad rate subject.

May Join Minority.

The conference, which lasted three hours, developed opposition to the measure at the conference, which lasted three hours, developed opposition to the measure of the most on the most on the most on the most on the subject.

The conference, which lasted three hours, developed opposition to the measure for a work of the most on the most on the most on the conference, which lasted three hours, developed opposition to the measure for a work of the measure for a work of the most on the conference, which lasted three hours, developed opposition to the measure for a work of the most on the conference, which lasted three hours, developed opposition to the most on the conference, which lasted three hours, developed opposition to the most on the conference, which lasted three hours, developed opposition to the most of the conference, which lasted three hours, developed opposition to the most of the conference, which lasted three hours, developed opposition to the sub

General Miles claims that in putting irons on Mr. Davis he acted under orders, and was simply acting as a soldier obeying his superior. Let us see how this is, m. The only order General Miles has ever been able to produce is the following, issued by C. A. Dama, the Assistant Secretary of War:

"Brevet Major-General Miles is hereby authorized and directed to place manacles and fetters upon the hands and feet of Jefferson Davis, and Clement C. Clay whenever he may deem it advisable in order to render their imprisonment more secure." (121 War Records of the Rebellion, p. 565.)

The same day Mr. Dana, who had gone to Fortress Monroe to see the prisoner so safely incarcerated, wrote a vivid account of the whole proceedings, in which he says. * * "I have not given or says."

count of the whole proceedings, in which he says. * * * "I have not given orders to have them placed in trons, as General Halleck seemed opposed to it, but General Miles is instructed to have fetters rendy if he thinks them necessary." (Ibid. p. 553.) Under this permit, which left the matter to General Miles' discretion, but did not order him to do it, he wrote to Dana on the 24th of May:

"Yesterday I directed that irons be

of May:
"Yesterday I directed that irons be put on Davis's ankles, which he violently resisted, but became more quiet afterward." (Ibid. pp. 570-71.)

It was probably intended that this letter should only be seen by Dana, but the story and out, was pubsomehow the story got out, was pub-lished in all of the papers, and in-stend of eliciting the approval and ap-plause which these worthles doubtless ex-

(Continued on Tenth Page.)

ATTEMPTING RESCUE, BOOT CAUGHT IN ICE

Starving Oystermen, Unable to Proceed.

(By Associated Press.)

ANNAPOLIS, MD., Feb. 3.-The ice poat Annapolis left here to-day to rescue a number of oystermen who have one a number of oystermen who have been ice-bound for two weeks off Deals Island in the Chesapeake Bay, Late this afternoon the Annapolis was frozen in the ice and was unable to proceed. The Annapolis is ice-bound three miles from the marconed oystermen, who are said to be in a starving condition. Another iceboat will be probably sent from Bailimore to-morrow to take off the starving men. the starving men,

Money for Hampton Institute.

WORCESTER, MASS., February 3.—
The will of Edward A. Goodnow, of Worcester, filed fer probate to day, leaves to Tuskesse. Normal and Industrial Institute \$5,000. and to the trustees of the Hapagion Institute, Hampton, Va., \$10,000.

DEATH OF A CHILD CAUSED BY WHISKEY

Annapolis, on Way to Save Four-Year-Old Son of Robert Walden the Victim of an Accident.

(Special to The Times-Dispatch.)
DANVILLE, VA., Feb. 3.—News reached
the city this morning of the death under the most distressing circumstances, near Elba, in Pittsylvania county, of the young son of Mr. Robert Walden, a well young son of Mr. Robert Walden, a Weinknown farmer reading in that vicinity, the boy meeting death as the result of drinking a large quantity of whiskey which had unfortunately been left in his reach.

Mr. Walden left around the house 2 jug of whiskey, which the boy afterwards discovered and begun to consume. The victim was only four years of age, and when discovered was in a serious condition.

Rough at Wilmington. (Special to The Times Dispatch). WILMINGTON N. C. Peb. 3.—Wilmington is having the worst spell of weather of the winter, it has sleated been this afternoon and to-night until the ground is covered.

COMPROMISE BILL WILL BE ADOPTED

Dr. Jones Makes Caustic Republicans of House to Rush Rate Measure Through.

PRESIDENT TAKES UP SANTA FE CASE

Holds Long Conference With Moody and Morton-Latter Involved in Affair-Report of Commission-Movement Against Private Car Trust.

WASHINGTON, Feb. 3.—The Republicans of the House of Representatives, in to give a true history of his treatment of conference this afternoon, adopted as a President Jefferson Davis while a prison- party measure the bill extending ratemaking powers to the Interstate Commerce Commission, as agreed upon by the Committee on Interstate and Wo Commerce, and known as the Esch-Town send bill.

The conference instructed the House providing for consideration of the mass ing next, and continuing until 4 o'clock No amendments will be allowed to the bill, although the first vote is to be taken on the Dawey bill, as the Democratic substitute for legislation on the railroad

ganize with the purpose of joining the minority in the House in the vote on the rule prescribing the mamper of consid-ering the bill in the House.

was sent to Fortress addition with the composition may only for complicity in the assassination of Mr. Lincoln."

Now, General Miles knows that this statement is without the slightest fountation—that while there was such a sland der against Mr. Davis at first that it ested upon so slight a foundation that be in intelligent man at the North believed it, and Holt and his band of trained perjurers did not dare to try him on any such charge.

He was imprisoned for "treason." and though Underwood and his "black and though Underwood and his "black and than" grand jury did find an indictment for treason against him. General Lee and other Confederate leaders on the advice of the ablest lawyers at the North. Chief Justice Chase at their head, the government never dared to try him even on that charge. Why, then, does General Miles bring in "compilicity in the assassination of Mr. Lincoln." except to revive the sold stander, and thus mitigate his own-critel treatment of this solder, statement of this solder, statement, patriot, and high-toned Christian sentleman?

""Under No Orders."

PRESIDENT HOLDS LONG CONFERENCE

Discusses Sante Fe Case With Moody-Report of Commission.

WASHINGTON, D. C., Feb. 3.—At the conclusion of a long Cabinet meeting tolegislation was under choussion, but beyond the fact that the Interstate Commerce Commission report on the Sants Fe rebates was considered, nothing was learned concerning it. Attorney-General Moody said he could not make any statement. It is understood, however, that under an act of Congress, officials of a railroad corporation who testify before the Interstate Commerce Commission are rendered immune thereby from prosecution for such offenses against the law as may be disclosed by their testimony. Whether officials of the same corporation who do not testify also are immune from prosecution for the offenses charged is said to be a serious question of law. Secretary Morton was one of the officials of the Atchison, Topeka and Santa Fe Railroad who testified before the commission during the investigation of the relate charges.

Decision of Commission.

rebate charges.

Decision of Commission.

"Flagrant, wilful and continuous violations" of the law during the past five years is the way in which the Atchison. Topeka and Santa Fe Railroad is arraigned in a decision promulgated today by the Interstate Commerce Commission on the alleged unlawful rates and parotices of that road in the transportation of coal and raine supplies, involving also the Colorado Fuel and Iron Company. The main points of the decision, summarizing the way in which it is alleged the law has been violated and disregarded, are as follows:

"The act to regulate commerce requires carriers to publish and adhere to their tariffs. The Atchison, Topeka and Santa Fe Railway Company for the last five years willfully and continuously violated this provision of the law in the respects above stat d.

"February 19, 1903, the so-called Elkins bill was enacted, providing that carriers should in no ease transport traffic until a tariff has been published and that the published tariff should be observed, and providing a penalty of not less than \$1,000, nor more than \$20,000 for each offense. The provisions of this State extend both to the railway company, which grants and the party which receives the concession. Both the Santa Fs and he Colorado Fuel and Iron Company systematically: and continuously violated the provisions of that act in the particular mentioned from the day of its passage down to November 27, 1904, when the tariff under which this coal moved were reduced in all cases.

Ili6 "It should be further observed that on March *26, 1904, the United States**

11.16. "It should be further observed that on March 25, 1902, the United States